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SUBJECT: U.S.-OWNED MAQUILA IN TROUBLE IN GUATEMALA

REF: A. GUATEMALA 462

[1](#)B. FOSTER/JACOBSEN 2/2005 TELCONS WITH S/ES-O

Sensitive but unclassified. Please protect sources and proprietary business information.

[1](#)1. (SBU) Summary: Guatemalan maquila workers detained an Amcit factory manager in the workplace for nine hours in response to the factory's closure. The workers still have the Amcit under virtual house arrest. The workers are protesting that the factory owners offered them only twenty percent of the legally required severance benefits. After our contact with high-level GOG representatives, a Ministry of Labor inspector was assigned to alleviate tensions and help the two sides reach a settlement. The U.S.-based owners, however, told us they are not disposed to raise their offer. We will continue to work with the GOG to protect American lives and property and urge for a peaceful solution to the crisis. End summary.

Crisis in a maquila; protecting Amcit manager

[1](#)2. (U) Labor relations at a U.S.-owned maquila in Guatemala reached a crisis point February 18, when workers held the American citizen manager and ten of her senior staff hostage in the factory for nine hours in a dispute over severance packages. After a negotiated release, the workers allowed Frances McCall, the factory manager who has been resident in Guatemala since at least 1989, to return to her home at 2:00 AM on February 19, where workers kept her under house arrest throughout the weekend. To date, McCall can travel between her home and the factory under observation by the workers, but to no other location. The factory is located in the town of Izabal, in the rural and economically underdeveloped region of the same name approximately 150 miles east of Guatemala City.

[1](#)3. (SBU) After learning of the crisis on February 18, we discussed McCall's safety and the general situation with Government of Guatemala (GOG) officials over the weekend, including the Ministers of Foreign Affairs and Labor, and with the director of the Labor Inspectorate (IGT). GOG officials decided that the Ministry of Labor should take the lead on the case but that the Attorney General's Office would also look into possible criminal charges against the workers. On February 20, the IGT's director assigned Rene Estrada, the IGT's inspector resident in the Izabal region, to accompany McCall to the factory on February 21 in order to appeal for a negotiated solution. We have also maintained daily contact with McCall and with company management in Florida.

Shutting down operations

[1](#)4. (SBU) The factory is operated on behalf of Florida-based Gator Inc. Gator's owner, Frank Agliano, told us in a telephone conversation that the Guatemalan apparel company, known as J&R Sportswear, suffered declining orders from U.S. brand name apparel companies during the final quarter of CY 2004 and the first quarter of CY 2005. Agliano told us that J&R intended to file for a three-month work suspension during which Gator Inc. would terminate all employment contracts and search for new production contracts. If successful in finding production contracts, J&R would reopen under a new corporate charter and rehire the 360 member workforce.

[1](#)5. (SBU) Agliano told us that he sent two members of his staff from Tampa, Florida, to Guatemala during the week of February 14-18 to negotiate severance packages for the workers. After meeting with each department of the enterprise, the negotiators offered twenty percent (approximately USD 104,000) of the legally required benefits. The Executive Committee of the J&R Sportswear Workers' Association (not a union) rejected this offer, claiming they were legally entitled to USD 522,000. Following this demand, the negotiators left Guatemala overland to Honduras, where Gator also owns a maquila. (Note: Agliano told us that Gator Inc. enacted a four-month work suspension in its Honduran operation in 2004 for similar reasons. Gator also owns maquilas in El Salvador and Nicaragua. End note.)

[1](#)6. (SBU) Agliano told us that, in light of the February 18-19

detention of McCall, his two negotiators refuse to return to Guatemala and that he has no intention of visiting Guatemala either. Agliano also rejected an arbitration or mediation role for the Ministry of Labor, stating that the GOG would be biased in favor of the workforce. Indeed, Estrada told us that Agliano inflamed tensions by telling him that if the GOG wanted the workers to be paid, the GOG could pay the workers itself out of the profits from GOG-sanctioned drug smuggling and that his twenty percent offer was now a zero percent offer. (Note: Agliano repeated this comment to us, but did not attribute his drug smuggling allegation to any particular source. End note.)

17. (U) Estrada told us February 21 that the GOG's position is that J&R Sportswear's owners must meet their legal requirements to pay 100 percent of the legally mandated severance benefits. All companies, continued Estrada, must maintain a cash reserve for such eventualities.

18. (U) Agliano told us that J&R Sportswear had been in business in Guatemala for 18 years, producing trousers and skirts for U.S. brand name retailers such as Talbots, Lands End, and JC Penney. He said that production contracts became more scarce in the final quarter of CY 2004, when JC Penney cancelled a production run of cotton/lycra trousers. Agliano told us he had hoped to keep the facility in operation with a contract from Perry Ellis to produce 18,000 pairs of trousers per week, starting in the second quarter of CY 2005.

19. (SBU) Agliano claimed that J&R did not win the contract because Perry Ellis representatives visited the operation and were dismayed by the lack of professionalism. Agliano told us that the Perry Ellis team cited workers eating and sleeping at their workstations and that the workers had adopted a dog that was living in the factory.

Final contracts and making payroll

10. (SBU) McCall told us that J&R met payroll obligations on February 18, and that tempers flared afterwards as some workers wondered if it was their final wage payment. In fact, McCall and Agliano told us that J&R has one more wage payment due in the coming week. (Note: Wages at J&R are based on piecework and are distributed one week after the work is done. Thus, the payment made on February 18 was for the workweek of February 7-11. Workers stayed in their jobs until the afternoon of February 18. End note.)

11. (SBU) McCall went to the factory on the morning of February 21 with her staff -- and IGT inspector Estrada -- to begin the accounting and data entry tasks necessary to pay the workers for their final week on the job. McCall told us that they intend to pay the workers on February 24 and that she expected the wire transfer of funds on the morning of February 22. Agliano, however, told us that there is still one final container load of apparel destined for JC Penney that is awaiting shipment. Agliano noted that the workers are unwilling to release that final container and that he would not make the final payroll disbursement until the container is sent. At cost, the goods in the container are worth approximately USD 105,000. At wholesale, the goods are worth approximately USD 150,000.

Who is responsible?

12. (SBU) When asked who would represent ownership at any subsequent meetings, given that no U.S.-based staff were willing to come to Guatemala, Agliano noted that McCall could speak for the company. Agliano then told us that J&R was an independent company with no legal tie to Gator, thus absolving himself of responsibility. Agliano was vague as to the legal ownership of J&R Sportswear, alluding to some of his family members, himself, and then finally to McCall, although he had originally referred to her as merely an employee.

13. (SBU) An infuriated McCall told us that she was, in fact, listed in the original incorporation papers as one of the owners, but that she never had any investment stake, share in profits, or executive authority. She also flatly refused to negotiate on behalf of the company, noting that it was outside of her role and that "someone better get down here from Florida, and they better offer more than twenty percent."

Next steps

14. (SBU) Agliano told us that there are three sequential issues: get the container out, make payroll, and negotiate a severance package. J&R is represented by a Guatemala City based attorney. However, McCall told us that he fled the scene on the afternoon of February 18 and has been unavailable since. For that reason, she hired a local attorney in Izabal, who negotiated her release in the early

morning of February 19. McCall said she will continue to work with this local attorney. Agliano told us that the Guatemala City attorney filed work suspension papers at the Ministry of Labor on February 21.

15. (SBU) The Workers' Association is also represented by a local attorney. McCall hopes to reach an agreement with this attorney to send out the final shipment of apparel in exchange for the final week's pay. Estrada told us, however, that the workers see the final shipment as their only point of leverage with management. McCall continues to stress that negotiations on severance packages must be between Gator and the Workers' Association.

16. (SBU) The Ombudsman for Human Rights (PDH) representative for the Izabal region told us that he has asked the lawyers for the two sides to meet in the PDH office to discuss potential negotiations on the severance package. The PDH representative had been unaware of the controversy regarding the final week's pay and the final shipment of apparel but said he would try to raise that issue in his discussions with the lawyers as well.

Comment

17. (SBU) While the U.S. is the leading consumer of Guatemala's maquila products, very few of the maquilas have U.S. ownership. This situation, however, highlights the vulnerability of maquila workers since maquilas can (and do) close overnight, leaving behind no assets. The WOLA-U.S./LEAP GSP petition noted the ease with which maquilas can shut down to evade their obligations and then re-open elsewhere. As pressures mount within the global textile and apparel market, we expect to see more of these situations in the region.

18. (SBU) As noted reftel, tensions in maquilas are high and most workers fear imminent unemployment. As in many countries in this hemisphere, maquilas represent a huge percentage of formal sector employment. The expiration of quotas on Chinese and Indian production threatens the entire Guatemalan economy. We expect that as maquilas close, a great number of the 126,000 maquila workers will head north.

19. (SBU) We have raised with McCall the issue of her departure (along with her daughter and granddaughter) if the situation deteriorates. We will continue to monitor the situation closely and assist as appropriate.
HAMILTON